

THE
GENUINE TRIAL

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Francis Townley,

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Late of MANCHESTER, Gentleman;

WHO WAS

Appointed Colonel of the MANCHESTER
Regiment by the young Pretender, and
Commandant of the City of CARLISLE:

AND WAS

Convicted of High Treason, at the Town-Hall
on St. Margaret's-Hill, Southwark, on Tuesday
July 15th, 1746, for levying War against his
Majesty KING GEORGE the Second, and ad-
hering to his Majesty's Enemies;

BEFORE

The Lords the King's Justices, and others the Com-
missioners named in the Special Commission for
trying the *English* Rebels.

To which is added,

The TRIALS of GEORGE FLETCHER, THO-
MAS CHADWICK, and WILLIAM BATTRAGH,
Officers in the aforesaid TOWNLEY'S
Regiment: Convicted on *Wednesday*
July 16, 1746.

L O N D O N:

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It is worthy Observation, that during the Course of those Trials of the Rebels, which have hitherto been brought on, the Prisoners though they have excepted against some of the Jurors, yet they shew'd no Reason for challenging those they did: From whence it is evident, that the High Sheriff took particular Care to summon such Men only, to serve their Country, on this important Occasion, as he was satisfied would do Justice, without Partiality, between the King and Subject.

To the PUBLICK.

THE Expectations of the Publick are undoubtedly rais'd to a very great Height, and the People have for some time impatiently waited to see what would be the Fate of those insatuated Wretches, who, for a great while, spread Terror and Desolation over all the Northern Parts of this Kingdom; who rioted in the Destruction of innocent Families; who wanton'd in the Blood of his Majesty's faithful Servants and Subjects; and who would have rejoiced in the utter Extinction of all our Rights and Privileges, as well Civil as Sacred. But Providence, ever watchful for the Safety of this much favoured Kingdom, has graciously frustrated their villainous Designs, disappointed their Hopes, broke their Measures, and given them up as Victims to that Justice which their injured Country most righteously demands. Had their traiterous Designs succeeded, God only knows what would have been the miserable Condition of this unhappy Country. But, whatever we read, whatever we have heard, of the Calamities of those wretched People who are obliged to submit to Ecclesiastick Tyranny, and despotick Power, must have been our own dreadful Doom. But at length these Disturbers of our Peace, these Spoilers of their native Country, are brought to the Bar of Justice, where there is no Question but they will hear that Sentence pass'd upon them, which the Heinousness of their Crimes has intitled them to, and will suffer that condign Punishment they have so justly deserved, which is but a small Satisfaction, tho' all in their Power to make, for the many innocent Lives they have destroyed, and the innumerable Evils they have brought on their desolated Country.

The first of this rebellious Crew that was brought to his Trial, was Col. Townley, a Man of about 38 Years of Age, who had been long in the French Service, and had the French King's Commission, tho' that avail'd him nothing in his Defence. But tho' his Crimes were of the most enormous Nature, yet the Court gave him all the fair Play he could reasonably desire or expect; and he had the Liberty of producing every thing that he or his Council could think of in his Defence; to shew, that the Government were resolv'd to act, in regard to the Rebels, with all the Lenity and Tender-
ness

ness imaginable ; and so put it out of their Power to complain of Severity, or unfair Practices against them, and to stop the Mouths of the Jacobites, who would have been glad to have open'd against the Legislature with Outcries of Cruelty and Oppression.

This Trial has been taken with the utmost Accuracy and Exactness ; the Evidence given by the Witnesses, as well for, as against the Prisoner, is here set down in the very Words it was given in Court ; and the Pleadings of the Council on both Sides are as near as possible, tho' not quite so long, as delivered by the Gentlemen who spoke them.

The Trials of George Fletcher, Thomas Chadwick, and William Battragh, are also here inserted, and impartially set forth.



PROCEEDINGS

ON THE

King's Commission of Oyer and Terminer, at the Court-House on St. Margaret's-Hill, Southwark, 1746.

ON Monday, June 23, 1746. the Right Honourable the Lord Chief Justice *Lee*, the Right Honourable the Lord Chief Justice *Willes*, Sir *Martin Wright*, Sir *Thomas Burnet*, Sir *Thomas Abney*, Sir *James Reynolds*, Mr. *Baron Clarke*, and Mr. *Baron Clive*, attended by the several Officers, came in Procession to the Town-Hall on St. Margaret's-Hill, Southwark, and open'd their special Commission, for holding a Session of Oyer and Terminer, and Goal-Delivery, for the County of *Surrey*; which being read, Sir *William Lee*, Lord Chief Justice of his Majesty's Court of *King's-Bench*, gave the Grand Inquest a most learned and excellent Charge, and then they withdrew to the *Three-Tuns* Tavern, on St. Margaret's-Hill, (where they had agreed to sit) and found Bills for High-Treason against the Earls of *Cromarty* and *Kilmarnock*, and Lord *Balmerino*. The Names of
the

the Gentlemen who were sworn on the Grand Jury are as follow, viz.

Sir William Richardson of Bermondsey, Knt.
Sir Abraham Shard of Kennington, Knt.
Sir Thomas Hankey of Clapham, Knt.
Sir Peter Thompson of Bermondsey, Knt.
Josias Wordsworth of Adfcomb, Esq;
Percival Lewis of Putney, Esq;
John Copeland of Camberwell, Esq;
Charles Hoskins of Croydon, Esq;
Joseph Willoughby of the same, Esq;
John Heathfield of the same, Esq;
Samuel Nicholson of the same, Esq;
Joseph Creswick of Streatham, Esq;
William Clark of Southwark, Esq;
Thomas Bevois of Bermondsey, Esq;
Elias Bird of Rotherhithe, Esq;
Thomas Tarrant of Southwark, Esq;
Richard Stevens of the same, Esq;
Henry Robinson of Wandsworth, Esq;
Nathaniel Green of Southwark, Esq;
Isaac Eels of Lambeth, Esq;
John Smith of the same, Esq;
Hemmet Richardson of Bermondsey, Esq;
Samuel Atkinson of Croydon, Esq;

This Grand Inquest having, on *Wednesday* the 25th,
 and *Thursday* the 26th of *June*, found Bills of Indict-
 ment against 34 of the Rebel Prisoners in Custody,
 they were brought to the Bar on *Thursday* the 3d of
July, and arraign'd on these Indictments, which were
 all laid for High-Treason, committed against his
 Majesty's Person and Government, in levying and
 carrying on a cruel and destructive War, &c. in
 these Kingdoms: To which Indictments, three that
 were

were arraign'd pleaded *Guilty*, viz. *James Geddes*, a Captain in the Duke of *Perth's* Regiment; *Alexander Abernethy*, Captain in ditto; and *Thomas Furnival*, a Lieutenant in the *Manchester* Regiment. And all the others pleaded *Not guilty*, and for their Trials put themselves on God and their Country.

The Prisoners who pleaded *Not guilty* presented Petitions to the Court, praying, That they might have further Time to prepare for their Trials; some of them alledging that their Witnesses were some hundred Miles Distance. On reading these Petitions, and the Petitioners making Oath that the Contents of those Petitions were Matters of Fact, the Court adjourn'd to the next Day to consider of the same. And the Court being met accordingly, they came to a Resolution to defer the Trials of the *English* Prisoners to *Tuesday, July 15*, and the Trials of the *Scotch* Prisoners to the 25th of the same Month, the better to enable them to prepare for their Defence, and order'd them to send for all their Witnesses accordingly. — And then the Court adjourn'd.

Tuesday, July 15, 1746.

This Morning, at Ten o' Clock, the following Judges came into Court, viz.

Lord Chief Justice *Lee*, Lord Chief Justice *Willes*, Mr. Justice *Wright*, Mr. Justice *Dennison*, Mr. Justice *Forster*, Mr. Justice *Abney*, Mr. Baron *Reynolds*, and Mr. Baron *Clive*.

And their Lordships being seated on the Bench, with Sir *Thomas De Veil*, Knt. and *Peter Theobalds*, Esq; (both Justices of the Peace for the County of *Surrey*, and Gentlemen named in the Special Commission) Order was given for Proclamation to be made.

Cryer

Cryer of the Court.---All manner of Persons that have any thing more to do before my Lords the King's Justices, and other Commissioners of Oyer and Terminer, and Goal-Delivery, for this County of Surrey, let them draw near, and give their Attendance.

And then the Cryer call'd over the several Jurors who had been impannell'd, whose Names are as follow, viz.

- 1 **D**aniel Ponton of Lambeth, *Starch-maker.*
- 2 John Hayward of Chelsham, *Gentlemen.*
- 3 Thomas Raymond of the Parish of St. Saviour, *Linen-drapeer.*
- 4 Michael Cuff of Battersea, *Gardener.*
- 5 Michael Constable of Dorkeing, *Yeoman.*
- 6 William Salter of Kingston, *Tallow-chandler.*
- 7 James Glover of Croydon, *Mercer.*
- 8 Edward Brent, of the Parish of St. John, *Gentleman.*
- 9 Joseph Tew of the Parish of St. Olave, *Baker.*
- 10 Henry Goodyer of the Parish of St. Olave, *Leather-seller.*
- 11 James Spires of Wandsworth, *Gentleman.*
- 12 Francis Bartholomew of Egham, *Gentleman.*
- 13 William Golding of the Parish of St. Saviour, *Hop-merchant.*
- 14 William Wright of Newington, *Gentleman.*
- 15 Robert Wood of Epsome, *Baker.*
- 16 William Brooker of Walton upon Thames, *Brewer.*
- 17 William Delver of the same, *Timber-merchant.*
- 18 Abraham Mills of Rotherhithe, *Timber-merchant.*
- 19 James Moulton of Croydon, *Gentleman.*
- 20 Richard Gibson of the same, *Gentleman.*
- 21 Edmund Brown of the same, *Brewer.*
- 22 Thomas Belch of Coulsdon, *Gentleman.*

23 Thomas

- 23 Thomas Dawson of the Parish of St. George,
Southwark, *Brasier*.
- 24 James Fowler of the same, *Broom-maker*.
- 25 Thomas Hill of the same, *Broom-maker*.
- 26 Richard Haddow of the same, *Baker*.
- 27 John Fowler of the Parish of St. Thomas, *Hat-*
maker.
- 28 Christopher Stoakes of Bermondsey, *Fell-monger*.
- 29 Thomas Hattersley of the Parish of St. Olave,
Oilman.
- 30 Thomas Howlett of Kew, *Bricklayer*.
- 31 William Hinchcliffe of St. Olave, *Skinner*.
- 32 Richard Beale of the Parish of St. Saviour, *Sadler*.
- 33 Timothy Hawkins of Rotherhithe, *Linen-drapeer*.
- 34 William Taylor of the Parish of St. Saviour,
Brewer.
- 35 Philip Allaway junior of Christ-church, *Ship-wright*.
- 36 Richard Keys of Newington, *Innbolder*.
- 37 David Pike of Christ-church, *Ship-wright*.
- 38 Joseph Fortee of Lambeth, *Potter*.
- 39 Harman Heath of the same, *Merchant*.
- 40 Edward Pollard of the Parish of St. Saviour, *Hop-*
merchant.
- 41 Thomas Lintall of the same, *Cloth-worker*.
- 42 Richard Sidwell of Bermondsey, *Carpenter*.
- 43 Peter Batt of Moredon, *Yeoman*.
- 44 William Brumbridge of Egham, *Yeoman*.
- 45 James Pain of Seal, *Yeoman*.
- 46 Thomas Rooke of Elstead, *Yeoman*.
- 47 John Mills of Godalming, *Yeoman*.
- 48 Francis Simmonds of Puttenham, *Yeoman*.
- 49 Richard Sparkes of Wonerth, *Yeoman*.
- 50 William Shurlock of Shere, *Yeoman*.
- 51 James Smallpiece of Bramley, *Yeoman*.
- 52 Richard Toy of Richmond, *Grocer*.
- 53 Edward Oram of the same, *Gentleman*.

- 54 John Fielder of Elshere, *Yeoman.*
- 55 John Tickner of Kingston, *Carpenter.*
- 56 James Vinall of Elshere, *Wheel-wright.*
- 57 John Otway of Ashstead, *Yeoman.*
- 58 Thomas Puplett of Banstead, *Yeoman.*
- 59 John Start of Epsome, *Corn-chandler.*
- 60 Elin Edgar of the same, *Tallow-chandler.*
- 61 Thomas Wright of the same, *Gentleman.*
- 62 William Stewart of the same, *Yeoman.*
- 63 George Hart of Croydon, *Callicoe-printer.*
- 64 William Bridgstock of the same, *Farmer.*
- 65 John Heathfield of the same, *Oatmeal-man.*
- 66 John Rowles of the same, *Wheel-wright.*
- 67 John Liversedge of the Parish of St. George,
Grocer.
- 68 Robert Finch of the same, *Innholder.*
- 69 Joshua Brookes, of the Parish of St. John, *Cooper.*
- 70 John Mason of the same, *Carpenter.*
- 71 Thomas Braple of the same, *Ship-wright.*
- 72 George Fee of the same, *Brewer.*
- 73 Daniel Bartlett of the Parish of St. Olave, *Brasier.*
- 74 Thomas Burchett of the same, *Cheese-monger.*
- 75 John Hulme of the Parish of St. Saviour, *Tal-
low-chandler.*
- 76 Henry Sherwin of the Parish of St. Thomas,
Looking-glass-maker.
- 77 William Wilkins of Bermondsey, *Gentleman.*
- 78 Body Spearman of the same, *Sail-maker.*
- 79 Joakim Faulk of the same, *Joiner.*
- 80 Jarvis Mason of the same, *Waterman.*
- 81 James Pew of Rotherhithe, *Gentleman.*
- 82 John Haynes of the same, *Gentleman.*
- 83 William Warren of the same, *Mariner.*
- 84 George Hardy senior of the same, *Mariner.*
- 85 George Hardy junior of the same.
- 86 Henry Summers of the same, *Bricklayer.*

- 87 John Euserfun of the same, Carpenter.
- 88 John Reed of the same, Gunsmith.
- 89 John Lucy of the same, Ship-wright.
- 90 Ralph Godfrey of the same, Blacksmith.
- 91 Abraham Goodwin of Mortlake, Gentleman.
- 92 Thomas Elliot of the Parish of St. Saviour, Cooper.
- 93 William Barnard of Christ-Church, Coal-merchant.
- 94 Michael Maynard of the same, Coal-merchant.
- 95 John Osborne of the Parish of St. George, Pewterer.
- 96 Thomas Andrews of the same, Broker.
- 97 William Matthews of Newington, Pewterer.
- 98 John Voice of the Parish of St. Saviour, Brick-layer.
- 99 Dionysius Fairclough of Lambeth, Gardener.
- 100 Thomas Clement of Bletchingly, Grocer.
- 101 Thomas Simmonds the younger of Walton upon Thames, Yeoman.
- 102 James Hill of Croydon, Innholder.
- 103 John Jeffries of the same, Yeoman.
- 104 Robert Lucas of Coulidon, Gentleman.
- 105 Henry Rowed of the same, Yeoman.
- 106 John Clement of Nutfield, Yeoman.
- 107 Thomas Russel of the same, Yeoman.
- 108 George Aynscomb of Gatton, Yeoman.

Those that did not appear, their Default was marked, and then the Keeper of the County Goal had Orders to bring *Francis Townley* to the Bar; which he did accordingly.

Clerk of the Arraignment. *Francis Townley*, hold up thy Hand, (*which he did.*) You the Prisoner at the Bar, These good Men whom you shall hear called, and personally appear, are to pass between our Sovereign Lord the King and you, upon the Trial of your Life and Death: If therefore you would challenge them,

them, or any of them, you must speak to them as they come to the Book to be sworn, and before they are sworn.

Then *Daniel Ponton* being called, appeared, and the Prisoner liked of him as a Jury-man, and then he (after several Challenges) with the following Gentlemen were sworn, viz.

- 1 *Daniel Ponton of Lambeth, Starch-maker.*
- 2 *John Haywood of Chelsham, Gentleman.*
- 3 *Michael Cuffe of Battersea, Gardener.*
- 4 *Francis Bartholomew of Egham, Gentleman.*
- 5 *Robert Wood of Epsom, Baker.*
- 6 *William Brooker of Walton upon Thames, Brewer.*
- 7 *Edmund Browne of Croydon, Brewer.*
- 8 *Thomas Belch of Coulsdon, Gentleman.*
- 9 *Thomas Dawson of St. George in Southwark, Brazier.*
- 10 *William Taylor of St. Saviour in Southwark, Brewer.*
- 11 *Thomas Lintal of the same, Cloth-worker.*
- 12 *James Paine of Seal, Yeoman.*

Clerk of the Arraignment. Count these.

Crier. *Daniel Ponton*, One, (and so on till the Twelve sworn all answer'd to their Names) All good Men and true, stand together, and hear your Evidence.

Then the Clerk of the Arraignment (after Silence commanded) read over his Indictment to him, which was as follows:

Francis Townley, late of the City of *Carlisle*, in the County of *Cumberland*, Gent. was indicted for that he, (with *Andrew Blood* and *George Fletcher*) not having

having the Fear of God in his Heart, nor regarding his Duty and Allegiance, but, being moved and seduced by the Instigation of the Devil, as a false Traitor against his most serene, illustrious and excellent Prince, *George the Second*, by the Grace of God of *Great Britain, France, and Ireland*, King, Defender of the Faith, &c. his supreme, true, lawful, rightful, and undoubted Sovereign Lord, the cordial Love, and due and true Obedience, Fidelity, and true Allegiance, which every Subject of our said Lord the King ought to bear, withdrawing, and utterly to extinguish, intending and contriving, and with all his Force, purposing and designing the Government of these Kingdoms to subvert, change, and alter; as also our said Lord the King, to Death, and final Destruction to put and bring, and these Kingdoms into intolerable and miserable Slavery to subdue and inthral; and to fix on the Imperial Throne of these Realms, a Person called the Prince of *Wales*, in the Time of the late King *James the Second*, &c.

And the Indictment further chargeth, That he, the said *Francis Townley*, on the 10th Day of *November* last, in the 19th Year of the Reign of his present Majesty, did appear, array'd in a hostile Manner, at the City of *Carlisle* aforesaid, in the County of *Cumberland* aforesaid, with 3000 Persons and upwards, in a tumultuous and rebellious Manner, with Guns, Swords, Clubs, Staves, and other Weapons, offensive as well as defensive, with Drums beating, Colours flying, Pipes playing, and there, being so array'd, did, in a warlike and hostile Manner, levy a cruel War, and took Possession of the said City of *Carlisle*, and the Citadel of the same City, being a City and Citadel of our Sovereign Lord the King, and made a cruel Slaughter of the

Sub-

Subjects of our Sovereign Lord the King that now is, and the same City did keep, sustain and defend.

And this Indictment is laid to be against the King's Peace, his Crown, and Dignity, the Duty of their Allegiance, and the Forms of the Statute in that Case made and provided, &c.

Clerk. Gentlemen, Upon this Indictment, the Prisoner at the Bar has been arraign'd, and thereunto has pleaded *Not guilty*, and for his Trial has put himself upon God and his Country, which Country you are: Your Charge is to inquire, whether he be guilty of the High Treason whereof he stands indicted, or not guilty; if you find him guilty, you are to inquire what Goods and Chattels, Lands or Tenements he had at the Time of the High Treason committed, or at any Time since: If you find him not guilty, you are to inquire whether he fled for it; and if you find he fled for it, you are to inquire of his Goods and Chattels, as if you had found him guilty: If you find him not guilty, nor that he did fly for it, you are to say so, and no more, and hear your Evidence.

The Council for the King were Mr. Attorney General, Sir *John Strange*, Mr. Solicitor General, Sir *Richard Lloyd*, and the Honourable Mr. *York*; and for the Prisoner, Mr. Serjeant *Wynne*, and Mr. *Clayton*.

Mr. *York*, Council for the King. May it please your Lordships, and you Gentlemen of the Jury, This is an Indictment against *Francis Townley*, the Prisoner at the Bar, and sets forth, &c. [the Purport of the Indictment is before-mention'd] To this Indictment he hath pleaded *Not guilty*. We shall produce our Witnesses to make good the Charge against the Prisoner, which if we do, we doubt not that you will find him guilty of the Indictment.

Mr. *Attorney General*. My Lords and you Gentlemen

men of the Jury, The Prisoner at the Bar, having been deeply engaged in the late unnatural and wicked Rebellion, begun in *Scotland*, and carried into the Heart of this Kingdom, in order to overset our present happy Constitution in Church and State, hath made it necessary for this Prosecution against him: I don't doubt but, in the Course of our Evidence, we shall make it appear to your Satisfaction, that the Prisoner with two others, whose Names are *Blood* and *Fletcher*, and other their Confederates, did assemble in a warlike Manner, and procured Arms, Ammunition, and other Instruments of War; and compos'd a Regiment for the Service of the Pretender to these Realms, to wage War against his present most sacred Majesty; and did march through and invade several Parts of this Kingdom, and unlawfully did seize his Majesty's Treasure in many Places for the Service of their villainous Cause, and took away the Horses and other Goods, Merchandize, and Chattels of many of his Majesty's peaceable Subjects. And that, during the said March, the Prisoner, with other Rebels, in open Defiance of his Majesty's undoubted Right and Title to the Crown of these Realms, frequently caused the Pretender's Son to be proclaimed, in a publick and solemn Manner, as Regent of these Realms, and himself march'd at the Head of a pretended Regiment which they call'd the *Manchester* Regiment.

My Lords, I shall not take up the Time of the Court in saying a great deal; for all that the Prisoner is charg'd with will appear so full and plain from the Evidence we shall produce for the King, that there will not be the least Doubt with the Jury to find him guilty.

Sir *John Strange* then spoke to the following Effect: My Lords, and you Gentlemen of the Jury; I am
of

of Council in this Case likewise for the Crown: I am very far from aggravating this Case against the Prisoner at the Bar; but I cannot help observing, that the Engagements which the Prisoner had embarked in, would have overfet one of the most glorious and free Constitutions that ever was framed, and, I believe I may venture to say, is the only one in the whole World.

If an Attempt to subvert the Government, to destroy the King, and set up a *Popish* Pretender, if marching in an hostile Manner, carrying on a bloody and destructive War in this Nation, can move Compassion, or be extenuated, any Rebellion may be palliated over and excused, since scarce any Circumstance can be added in Aggravation of that which hath lately been raised and carried on in this Kingdom.

Every body knows the Rebellion broke out in *Scotland* with a small Number of People, and made a very great Progress, 'till at last the Rebels had the Audaciousness, with the Pretender's Son at their Head, to fight his Majesty's Forces at *Preston-pans*, and then the Rebellion burrowed into *England*, and the Prisoner at the Bar was with them in *Lancashire*, particularly at *Preston*, and several other Places; and then they proceeded to *Manchester*, where the Prisoner form'd a Regiment, and accepted a Commission to be Colonel of the said Regiment, from the eldest Son of the Pretender, and wore a white Cockade, and a Plaid Sash, as a Mark of his Authority, and the Party he sided with; and then advanced from *Manchester* to *Derby* with his Regiment, where the Rebel Army halted some few Days; but being apprehensive of the Duke of *Cumberland's* attacking them, it so alarm'd them, that they marched back with great Precipitation till they came to *Carlisle*, where he acted as Commandant of the City, and gave out Orders

ders to the Garrison, amongst which he order'd the Houses of some of his Majesty's faithful Subjects to be set on Fire, but was afterwards obliged by the Duke to surrender to the King's Pleasure; and tho' Humanity may induce you to have Compassion towards the Prisoner, yet if it is proved he is guilty of the Crimes laid to him, the Justice of this Nation calls aloud for his Punishment.

For no less was to be a Sacrifice, than his Majesty and his Royal Family (a Succession of Princes, appointed by Divine Providence, to be not only the Preservers of our Rights and Liberties, but to be the Guardians of the Protestant Interest in *Europe*) to appease the Fury of a Set of unsatisfy'd People, who have associated in this most wicked and unnatural Rebellion, and who envied us, the faithful Subjects of his Majesty, the Blessings we enjoy'd uninterrupted of our Religious and Civil Rights and Privileges.

These People, in order to divert themselves, and amuse the Ignorant, had on their Standards or Colours, Motto's that they imagined would be grateful, *viz.*

LIBERTY and PROPERTY,
CHURCH and COUNTRY.

But your Lordship, and the Gentlemen of the Jury, as well as the unfortunate Person who stands before you at the Bar, will excuse me if I take upon me to interpret the Meaning of their famous Motto or Inscription, on their Colours, which not to take up too much of the Time of the Court, I shall do in few Words.

The *Liberty* they designed, was nothing less than SLAVERY; Their intended *Property* was PLUNDER, which too many of the good People of this Kingdom hath found; their *Church* was POPERY, and the Meaning of their *Country*, was only to make these

free Kingdoms a Province to *France*. We shall now call our Witnesses, who will give such Proofs against the Prisoner, that I doubt not, Gentlemen of the Jury, you will find him guilty of the Treason he stands charged with.

Mr. Solicitor General. Call *Roger MacDonald*.

Roger MacDonald being sworn, said, that he knew Colonel *Townley* the Prisoner, that he saw him at *Derby*, and, on the Retreat of the Rebel Army from thence, he march'd at the Head of the *Manchester Regiment*, as Colonel of the same.

This Witness also said, that he saw him with a white Cockade in his Hat, a Brace of Pistols, and was accounted as a principal Officer, between *Lancaster* and *Preston*, and he appeared at the Head of the Regiment, with Colours flying and Drums beating, and that he had on a Plaid Sash.

This Witness was then ask'd, what Number at that Time the Rebel Army might consist of? and he said, to the best of his Knowledge, he believed 5600 Men, but not all arm'd.

This Witness farther depos'd, that the Prisoner at the Bar was always look'd upon by both Officers and Soldiers, as Colonel of the Regiment called the *Manchester Regiment*; and that he gave Command to all the Officers under him, who obey'd his Command as principal Officer.---That the Regiment had a Flag with these Words on one Side, viz. *Liberty and Property*; and on the other, *Church and Country*:---that they had some *Artillery* with them, and the Prisoner always appear'd at the Head of his Regiment.

Cross Examination.

Prisoner's Council. Mr. Serj. *Wynne*. Pray have you had no Promise of Pardon?

Witness. I have had no certain Promise of Pardon. I was first examined, at *Inverness*, by the Judge Advo-

Advocate of *Scotland*, but he did not assure me of a Pardon.

Prisoner's Council. Did not you expect it?

Witness. I cannot say, but I did expect to be pardon'd, for I was only a Servant. I was brought ashore very poor, and without any thing to subsist on.

King's Council. You say you saw the Prisoner, in the Retreat from *Derby*, command his Regiment: Was not he look'd upon as Colonel?

Witness. Yes, I saw him on Horseback very often, and he always rode at the Head of the Regiment on a bay Horse.

Sir Richard Lloyd. Call *Samuel Maddox*, who appeared and was sworn, and said, the first Time he saw the Prisoner Colonel *Townley* was at *Manchester*, about the 6th, 7th, or 8th Day of *December* last, but the Day he could not particularly remember; and said the Prisoner was made Colonel of the *Manchester* Regiment by the Pretender's Son; and one Reason why he was certain he was Colonel of the Regiment, was, that a Guard from the said Regiment was mounted every Day, and Centinels placed at the Prisoner's Quarters; that he the said *Maddox* marched out with him in the Station of an Ensign, but never had any Commission, tho' he carried the Colours as such; that the Prisoner wore a Sword and a Brace of Pistols, with a white Cockade in his Hat, and that the Prisoner gave Command as Colonel of the Regiment, and that he ordered the said *Manchester* Regiment to be drawn up in the Church Yard, in *Manchester*, where the Pretender's Son reviewed them, and that he marched at the Head of the Regiment as Colonel to *Derby*. Their first Day's March from *Manchester* was to *Winflow*, where the Prisoner appeared also at the Head of the Regiment, and had a white Cockade in his Hat, a Plaid Sash, a Brace of Pistols, and a Sword;

a Sword; that their next Day's March was to *Macclesfield*, where he, this Witness, signified, he had an Inclination to leave the Regiment, and return home to his Master at *Manchester*, but was intimidated from so doing, by being threatned, and told, that if he did, he would have his Brains knock'd out.

This Witness farther depos'd, that when they were at *Derby* with the Rebel Army, they beat up for Volunteers for the *Manchester* Regiment, commanded by the Honourable Colonel *Francis Townley*, and that the same was done by the particular Order and Direction of the Prisoner.

That when the Rebel Army retreated from *Derby*, Col. *Townley* the Prisoner, and some of his Regiment, took out of a House between *Derby* and *Albborn*, a Sack full of Arms, which were concealed under some old Writings; that the said Arms were taken with them to *Albborn*, and lodg'd all Night in the Prisoner's own Room, and dispos'd of afterwards among his Men; that the Prisoner had two Centinels always at his Door all Night for fear the Duke of *Cumberland* was nearer to them then they imagined; that the Prisoner march'd as Col. of the *Manchester* Regiment, in their Retreat from *Derby* to *Carlisle* some Times at the Head of the Regiment; that when they came to *Carlisle*, the Prisoner was made by the Pretender's Son Commandant of *Carlisle*; and had another Commission given him by the Pretender's Son to raise a Regiment of Horse; that so soon as the main Body of the Rebel Army were gone from *Carlisle* for *Scotland*, he the Prisoner took on him the Command of the whole Rebel Forces left there, and that he gave Orders for the Guns to be mounted, and also ordered a House to be burnt; which was accordingly done, alledging that several of the King's Forces

Forces had fired from it, and annoyed the Pretender's Army; and that he particularly directed and caused several *Chevaux de Frize* to be made and fix'd at the Gates and Entrancés to the City, to prevent his Majesty's Horse or Dragoons from approaching it; that the Prisoner order'd some of the Rebel Army then in *Carlisle*, to make a Sally out to bring in some Sheep, and that the Prisoner mounted the Walls, with a Pistol in his Hand, to give Notice if the King's Forces was near where the Men were to go; that the Prisoner paid the Men of his own Company himself, as all the Captains of Companies did theirs; and that he had heard the Prisoner, when in *Carlisle* in Company with other Officers, complain that he was fourscore Pounds out of Pocket in paying his Men; that, before the Capitulation, this Witness heard the Prisoner have some Words, and was seemingly in a great Passion with Colonel *Hamilton*, who was Governor of the Castle or Citadel of *Carlisle*, for surrendering the Place, and not making a Defence to the last; and that he heard the Prisoner declare, that *it was better to die by the Sword, than to fall into the Hands of those damn'd Hanoverians.*

This Witness being particularly asked by the King's Council, if he had at any Time seen the Prisoner in *Carlisle*, act as an Officer, said, that he had particularly seen him encouraging the Rebel Soldiers to make Sallies out on the King's Forces.

Cross Examination of this Witness.

Mr. *Sergeant Wynne*. Mr. *Maddox*, after the Surrender of the Town and Citadel of *Carlisle*, did not you all expect Mercy?

Maddox. We were all put Prisoners into the Church.

Serj. *Wynne*. Did you all expect to be hang'd?

Maddox. I can't say that, for we were in Expectation of being at Liberty again soon.

Serj.

Serj. *Wynne*. Pray do not you expect a Pardon, or have you had any Promise of a Reward for what you have done in this Affair?

Maddox. I cannot say I have ever had any Promise of a Reward.

Serj. *Wynne*. I find you are a very smart young Man, and I desire to be answer'd to this Question; Pray have you had any Promise of a Reward or Pardon, or do you expect any Reward or Pardon after having given your Evidence against the Prisoner at the Bar, or the other Prisoners that are in Custody?

Maddox. My Brother came to me when I was in *New Prison*, and he did advise me to do the best I could for myself, and serve my Country. Soon after one of his Majesty's Messengers took me away; and I have been at his House ever since, only at those Times I went to be examined; no body ever told me that I should be pardon'd, but my Friends advis'd me to do what I have done. If I could have a free Pardon I should be very thankful for it.

Mr. *Clayton*, (*another of the Prisoner's Council*.) Mr. *Maddox*, did not his Royal Highness the DUKE, (when you surrendred Prisoners) promise you Mercy?

Maddox. All the Terms his Royal Highness said we were to expect, were, we should not be put to the Sword, but that we should be left to his Majesty's Pleasure, which two *Scots* Officers who went to the Duke, and whose Names were *Abernetby* and *Forbes*, told us; and that the People in *Carlisle* were to deliver up all their Arms at the Gate, and the Officers were to go into the Church.

King's Council. Call *Austin Coleman*, who appear'd and was sworn, and said, he saw the Prisoner at the Bar in *Carlisle*, who was call'd Col. *Townly*, and commanded the *Manchester* Regiment, and was made Commandant

mandant of the said City by the Pretender's Son ; and if any of the Soldiers wanted Arms they applied to him, and he furnish'd them with Firelocks, Pistols and Bayonets ; and that he often had seen the Prisoner order the Guard to mount, and always acted as their chief Officer, and all the other Officers took their Orders from him as their Superior.

Cross Examination.

Mr. Serj. *Wynne*. Pray Sir inform me what Time you saw the Gentleman at the Bar at *Carlisle*, was it in the Month of *November* ?

Coleman. I cannot tell what Month it was, I know I saw him at *Carlisle*, and he had a Commission from the Pretender's Son.

Mr. Serj. *Wynne*. Did you ever hear him say he had a Commission ?

Coleman. No I never did.

Mr. Serj. *Wynne*. Then what you say signifies nothing : Was it before *Christmas* or after that you saw him at *Carlisle* ?

Coleman. I don't know when it was I saw him there.

Mr. *Clayton*. Don't you know what Time of the Year *Christmas* is ?

Coleman. I don't know ; *Christmas* is when *Christmas* comes.

Mr. Serj. *Wynne*. I believe you hardly know your Right Hand from your Left.

King's Council. Call Capt. *Carey* of the Foot Guards, who appear'd.

King's Council. Pray swear the Captain ; which being done, he said that he received Orders by Lord *George Beauclerk*, from his Royal Highness Duke *William*, to take Care of the Governor of *Carlisle*, and had his Royal Highness's Orders to examine all the Rebel Prisoners Papers, amongst whom he apply'd

to

to the Prisoner at the Bar, who said he had delivered his Commission before to Major *Adams*. He farther said, that the Prisoner had some Guineas in his Pockets, and his Watch, which he did not take from him; for his Royal Highness's Orders were not to take any Money out of the Pockets of any of the Officers, only to seize all publick Money that they had collected; for that what Money they had in their Pockets might be of Service to them in their Confinement. That this Evidence indors'd all the Papers that he found on such of the Officers as he search'd, and said, the Capitulation was sign'd by the Duke of *Richmond*, Lieutenant General in the Army; wherein the Rebels in *Carlisle* were to be at the King's Pleasure.

Council for the King. Sir, are you sure that the Capitulation that was signed by the Duke of *Richmond* was mentioned to be reserv'd for the King's Pleasure.

Capt. Carey. I can't take upon me to be certain of that; but I think so.

King's Council. Do you know the Duke of *Richmond*'s Hand-writing?

Capt. Carey. No, I never saw his Grace write.

Then a Paper was shewn him, which he said was the Capitulation, and was read, as follows.

' All the Terms his Royal Highness will or can grant to the Rebel Garrison of *Carlisle*, are, That they shall not be put to the Sword, but be reserv'd for the King's Pleasure.

' If they consent to these Conditions, the Governor and principal Officers are to deliver themselves up immediately, and the Castle, Citadel, and all the Gates of the Town, are to be taken Possession of forthwith by the King's Troops. All the small Arms are to be lodged in the Town Guard Room,
and

and the rest of the Garrison are to retire to the Cathedral, where a Guard is to be placed over them. No Damage is to be done to the Artillery, Arms, or Ammunition.' *Head Quarters at Blackall, 30 Dec. Half an Hour past Two in the Afternoon.*

By his Royal Highness's Command,
Sign'd *Richmond, Lenox, and Aubigny*, Lieutenant-Generals of his Majesty's Forces.

King's Council. Call Capt. *Nevet* of the 3d Regiment of Foot Guards, who appearing, and being sworn, said, He went by Order of his Royal Highness the Duke to visit and examine the Rebel Officers in *Carlisle*; and that the Prisoner was one of them, and went by the Name of Col. *Townley*, and Commandant of *Carlisle*.

King's Council. Swear Capt. *Vere*, which was done.

King's Council. Sir, will you be pleased to tell my Lords and the Gentlemen of the Jury, what you know of the Prisoner at the Bar being in the late unnatural Rebellion?

Capt. *Vere.* I saw the Prisoner on the 20th of *November* at *Carlisle*, for I was taken Prisoner a little before by the Rebel Army; he was called Colonel *Townley*, Colonel of the *Manchester* Regiment, and Commandant of the Town. On the 25th of *December* he appear'd with a white Cockade; I went up to Colonel *Hamilton's* Room, where we talked of a Capitulation, and Mr. *Hamilton* was willing to agree to it: We then wrote a Letter to his Royal Highness the Duke, and the Messenger who carried it was made a Prisoner; and Mr. *Hamilton* desired me to go to Capt. *Abernetby*, and the *Scotch* Officers, and they all agreed to what was done, and the next Day they hung out the white Flag.

D

Sir

Sir *John Strange*. Did not *Townley* appear as the Commanding Officer?

Capt. *Vere*. Yes; I saw his Commission in the Guard Room.

Sir *John Strange*. Did you see it in his own Hands.

Capt. *Vere*. I can't say I did.

Mr. Serj. *Wynne*. Pray, Sir, what are you?

Capt. *Vere*. I am an Officer, and was sent by his Grace the Duke of *Newcastle* upon the publick Service.

Mr. *Davidson*, a Grocer of *Carlisle*, was the next Witness; who, being call'd and sworn, depos'd, that he had seen the Prisoner at *Carlisle*, where he acted as Colonel of the *Manchester* Regiment, and Commandant of the City of *Carlisle*; he was present when he ordered a House to be set on fire at *Carlisle*; and on this Deponent's asking him the Reason for it, he reply'd, that several of the Elector of *Hanover*'s Men had fired from it, and annoy'd his Men.

Here the King's Council rested it.

The Council for the Prisoner proceeded now to his Defence, and pleaded, That Mr. *Townley* was a Gentleman of a good Family, and that his Education was suitable to his Birth; but, by some Misfortunes in his Family, was obliged to retire to *France*, which happen'd in the Year 1728. Being a Man of Spirit he was soon taken Notice of by the *French* Court, and being recommended to his most Christian Majesty as a Person capable of a Post in his Army, the King gave him a Commission. In Consequence of which he serv'd at the Siege of *Philipsburgh* under the Marshal Duke of *Berwick*, who lost his Life before the Walls of that Place. Our young Officer, Mr. *Townley*, behaved himself there with such Cou-
rage

rage and Conduct, as gained him the Respect and Esteem of all the Officers in the Army. He executed all the Orders of his Superiors with the greatest Intrepidity, and exposed himself on every Occasion in such a Manner, as if Life was of no Signification, when Honour and the Service of his Master stood in Competition with it. He was likewise in several other Sieges and Engagements, where his Behaviour was always such as became a Man of Honour; and as he received the Pay of his most Christian Majesty, he thought it his Duty to serve him with all the Fidelity he was capable of. Thus he continued in that Service from the Year 1728, till a few Years since, that he came into *England*, where he privately resided till about the Time of the Breaking out of the Rebellion; and the *French* King imagining he might be of Service in promoting his Views, in the Invasion which he had meditated against these Kingdoms, sent him a Colonel's Commission, to enable him to raise Forces, and to assist his Ally, the Pretender, in his Expedition to *Scotland*. Thus it appears, that he has been sixteen Years in the Service of *France*; that he has had the *French* King's Commission during all that Time; and consequently was as much in the Service of *France* as any Officer in the *French* Army; and therefore they were humbly of Opinion, that Col. *Townley* had as just a Right to the *Cartel* as any *French* Officer that has been taken by the *English*, during the Progress of the War between the two Kingdoms.

We must acknowledge, that the King's Council have open'd the Nature of the Indictment with all the Candour that could be expected, and have not exaggerated the Charge against the Prisoner beyond the Bounds of Humanity and Good-nature; and we humbly hope they will be of Opinion with us, that tho' the Prisoner at the Bar should unhappily be found acting

acting in this unnatural Rebellion, yet as he acted under a Commission from the *French King*, he has a Right to the *Cartel* for settling the Exchange of Prisoners that may be taken on either Side, in the War now carried on between the two Kingdoms.

The Evidence we have to produce in Behalf of the Prisoner, are only three. The first is Capt. *Carpentier*, who will prove, we hope, to your Lordship's Satisfaction, that Col. *Townley* was many Years in the *French Service*, under a Commission from the *French King*; and, since his being taken at *Carlisle*, has been constantly supplied from *France*; the other two, who are *John Hayward* and *Thomas Dickinsen*, we shall bring to invalidate the Evidence of Mr. *Maddox*, by shewing the Badness of his Character, and that he is such a Man whose Testimony is not to be credited.

And the Prisoner's Council farther observed, that the Indictment was insufficient, for that they had not mentioned the Day in the Indictment when the Treason was done, and that by the glorious Statute of the 7th of King *William III.* which was justly esteemed the Bulwark of *English Liberty*, directed, that nothing shall be given in Evidence but what is inserted in the Indictment, and that the Time not being mentioned in the Indictment when the Treason was acted, is sufficient to quash it, because it might be so long past as to intitle the Prisoner to the Benefit of the Limitation enacted in the said King's Reign; and that Act says, that no Person shall be convicted, or suffer for High or Petit Treason, unless a Prosecution is begun against the Person who committed such Treason, in three Years after the Commission of such Treason.

Council. Pray call M. *Carpentier*, who appeared and was sworn.

King's

King's Council. Pray what would you ask this Gentleman to?

Prisoner's Council. To prove that the Prisoner had a Commission from the *French King*, and that he was at the Siege of *Philipsburg*.

Court. That will be against you; for no Man that is a liege Subject of his Majesty can justify taking up Arms, and acting in the Service of a Prince that is actually in War against his Majesty.

On which *Carpentier* was set aside, without being examined.

Mr. Serj. Wynne. Pray call *John Hayward*; who appeared and was sworn.

Mr. Serj. Wynne. Pray, Sir, do you know *Samuel Maddox*, and how long have you known him?

John Hayward. Yes, Sir, about two Years.

Mr. Serj. Wynne. Pray what Character doth he bear?

John Hayward. He bears such a very bad Character, that I would not believe him upon his Oath.

Cross Examined.

Sir John Strange. -I hope you believe every Person that join'd with the Rebels, are bad Men.

Hayward. Yes, Sir.

Sir R. Lloyd. What Business are you of?

Hayward. I am a Glover and Leather-seller at *Manchester*. After being examined, he went out of Court, but was recalled.

Solicitor Gen. *Mr. Hayward*, Pray did you see the Prisoner at the Bar in *Manchester*?

Hayward. No, I never saw the Prisoner before.

Counf. Clayton. Pray call *Thomas Dickinson*; who appear'd, and was sworn.

Counf. Clayton. Sir, do you know *Samuel Maddox*?
T. Dick-

T. Dickinson. Yes, Sir; he was bound Apprentice to an Apothecary at *Manchester*.

Counf. Clayton. Pray what Character does he bear?

T. Dickinson. A very bad one.

Counf. Clayton. Would you believe him upon his Oath?

T. Dickinson. No, I would not, especially upon Life and Death.

Sir John Strange. For what Reason do you take upon you to swear, he is not to be believed upon his Oath?

Dickinson. I don't know particularly; but I have heard he was a very bad Apprentice, and that he had wrong'd his Master.

Sir J. Strange. Do you know his Master?

Dickinson. Yes; his Master is in *London* now.

Sir J. Strange. So, for no other Reason, than because you have heard he was not a good 'Prentice, you take upon you to swear he is not to be believed on his Oath. I suppose you have some more bad 'Prentices in *Manchester*.

Dickinson. Yes, there are.

Mr. Att. Gen. Dickinson, Did you ever see the Prisoner at *Manchester* at the Time the Rebel Army was there?

Dickinson. Yes.

Mr. Att. Gen. What was he doing there?

Dickinson. He was Colonel of the *Manchester* Regiment.

Mr. Att. Gen. What, in the Pretender's Service?

Dickinson. Yes, in the Rebel Army.

The Evidence for the Prisoner being all gone through, Mr. Solicitor General replied to what had been objected by the Prisoner's Council to the Indictment.

Mr. Solicitor General stood up, and made a Reply to the Prisoner's Council, wherein he observ'd, the
first

first ouvert Act of High Treason charged against the Prisoner, is compassing and imagining the Death of the King; the next is, adhering to the King's Enemies, and levying of War against his Majesty's Person and Government, and this is founded on the Statute of the 25th of *Edward the Third*. And levying of War by one or more Persons, is Treason: That this War has been levy'd, and that Acts of Hostilities have been committed by the Prisoner, I don't doubt but that it has been sufficiently proved to you, Gentlemen of the Jury; there is no Occasion to prove explicitly all that is laid in the Indictment; but that War has been levied against his Majesty, has been sufficiently proved, and admitted by the learned Council for the Prisoner; it has been proved likewise, that the Prisoner, with a tumultuous Number of Rebels and Traitors, did assemble in several Parts of his Majesty's Dominions, and levied a cruel and destructive War. The Council on the other Side would insinuate, that the Crime was committed before the Day laid in the Indictment, therefore the Day of the Commission in the Indictment should be inserted. But, admitting it was so, this Indictment is good; for in the Case of Sir *Harry Gray*, it was the Opinion of all the Judges, that Sir *Harry* was guilty, notwithstanding that the Fact was committed twelve Years before the Indictment; and it is recent in the Memory of many Gentlemen of the Law, that this was the Case of *Candler*, *Laver*, and *Bradshaw*; and so it was allowed in constructive Treason, in the Case of *Dammery* and others, in the Reign of the late Queen *Anne*, for pulling down of Houses, and many Cases of the like Nature in Sir *Matthew Hale's* Pleas of the Crown. For which several Reasons, and what has been mentioned before, I humbly conceive your Lordship will over-rule this Exception, as having no Weight

Weight. [Upon which the said Motion was over-ruled by the Court.] Then my Lord Chief Justice *Lee* summ'd up the Evidence very impartially, and gave a most eloquent and learned Charge to the Jury.

After which the Jury consulted together in Court, but not agreeing in their Verdict, withdrew about ten Minutes, and when they returned into Court, were called over by the Clerk of the Arraignment, and answered to their Names.

Clerk of the Arraignment. Gentlemen of the Jury, are you agreed on your Verdict?

Jury. Yes.

Clerk of the Arraignment. Who shall say for you?

Jury. Our Foreman.

Clerk of the Arraignment. *Francis Townley*, hold up your Hand, (which he did)

How say you? Is *Francis Townley* guilty of the High Treason whereof he stands indicted, or not guilty?

Foreman. GUILTY.

Clerk of the Arraignment. What Goods and Chattels, Lands and Tenements, had he at the Time of the said High Treason committed, and at any time since, to your Knowledge?

Jury. None.

Clerk of the Arraignment. Hearken to your Verdict, as the Court has recorded it; you say that *Francis Townley* is guilty of the High Treason whereof he stands indicted, and you say he had no Goods, nor Chattels, Land or Tenements, at the Time of the said High Treason committed, or at any time since, to your Knowledge, and so you say all.

Jury. Yes.

Then Mr. *Jones*, Keeper of the County Goal of *Surrey*, was order'd to take Care of the Prisoner.

*The TRIALS of George Fletcher,
Thomas Chadwick, and William
Brattagh, Officers in the Manchester
Regiment, Wednesday, July 16.*

Wednesday, July 16, 1746.

THIS Day the Court, according to Adjournment, met at Ten in the Morning, where there were present,

The Lord Chief Justice *Lee*,

Mr. Justice *Wright*, and

Mr. Baron *Reynolds*.

And also the other Officers attended the Court the preceeding Day, took their Seats; and Proclamation being made by the Crier, he proceeded to call the Jury, and ordered the Keeper of the County Goal to set *George Fletcher* to the Bar; which being done accordingly, the following Gentlemen (after the Prisoner had made ten Challenges) were sworn in for the Jury, and took the following Oath:

YOU shall well and truly try, and a true Deliverance make, between our Sovereign Lord the King, and the Prisoner at the Bar, whom you shall have in your Charge, and a true Verdict give, according to the Evidence.

So help you God.

The Names of the Jury.

Daniel Ponton,

Michael Cusse,

Michael Constable,

William Brooker,

Edmund Brown,

Thomas Belch.

Christopher Stoakes,

William Taylor,

Thomas Lintall,

Francis Simmonds,

James Paine, and

Richard Sparkes.

And they being all sworn, took their Seats in the Jury-box; and Proclamation was again made for

E

Silence.

Silence, whilst the Indictment was reading to the Prisoner.

Note. The Indictment was the same as that of *Townley's* (convicted the Day before) the Treason being laid to be committed the same Time, at the same Place, and in the same Manner, *i. e.* For levying War against his Majesty, compassing and imagining the King's Death, and adhering to his Majesty's Enemies, &c.

After the King's Council had opened the Charge, the following Evidence was called against the Prisoner.

Ormsby MacCormack being sworn.

King's Council. Mr. *MacCormack*, pray look upon the Prisoner, and then tell the Court, and the Gentlemen of the Jury, what you know of him; and speak out loud, that you may be heard.

MacCormack. The first Time that I saw him, was before the Rebels march'd from *Manchester* to *Derby*.

King's Council. What Appearance did the Prisoner make at *Manchester*? Did you look upon him to be an Officer?

MacCormack. He had a white Cockade in his Hat, and marched as Captain in the *Manchester* Regiment. I saw the Flag that belonged to the Regiment flying, and the Motto was, *Liberty and Property, Church and Country*.

King's Council. Did he march with all the Rebel Army? Were there any Pipes playing?

MacCormack. There were Pipes playing before the *Highland* Rebels, but none in the *Manchester* Regiment.--- I saw him also at *Derby*.

Prisoner's Council. Pray, Friend, how came you to know him so particularly?

MacCormack. They call'd him Captain *Dawson*.

[*Here the Council for the Prisoner interrupted the Witnesses, because there is one Dawson now in Custody,*
who

who was an Officer in the said Regiment, and the Prisoner's Name is Fletcher.]

King's Council. Look at the Prisoner again.

(Looking earnestly at him)

MacCormack. Though I may mistake his Name, I am sure he is the Person that I saw at *Derby*, though I cannot positively say he gave any Command there as an Officer. I saw him at *Preston*, and other Places along the Road, till we came to *Carlisle*.

King's Council. Was you with him at *Carlisle*?

MacCormack. I was at *Carlisle*, but he was there before I came, and there I saw him act as a Captain; and when the Soldiers were drawn up in the *Castle-Yard*, I saw him there, and saw Arms distributed to some of the Soldiers who had none.

Prisoner's Council. Did you see him distribute any Arms to any of the Soldiers?

MacCormack. I cannot say that I did.

Prisoner's Council. Then who distributed those Arms?

MacCormack. It was a *Scotch* Officer, whom I am informed is since killed. — I heard so.

King's Council. Was not the Prisoner at the Bar at *Carlisle* when the Duke was before the Town?

MacCormack. Yes, I am sure he was, and commanded as an Officer; he had a white Cockade in his Hat, a *Highland* Sash Plaid lin'd with white Silk, and all Military Accoutrements that Officers have.

King's Council. Then you are certain as to his Person.

MacCormack. I am certain this is the Gentleman, for he mounted the very first Captain's Guard that was mounted at *Carlisle*. I saw him at the Surrender, and he was carried into the Church, and made Prisoner with the rest of the Officers.

Serj. Wynne. Are you sure he is the very Man?

MacCormack.

M^cCormack. I am very sure of it, tho' he has been long out of my Sight.

Lord Chief Justice. Consider, you are upon your Oath, and what you say affects his Life.

M^cCormack. I am sure he's the very same. I know his Person perfectly well.

Serj. Wynne. How can you be so positive to him, did you ever see him before you came to *Manchester*?

M^cCormack. Not to my Knowledge.

Serj. Wynne. Where did you come from? what Countryman are you?

M^cCormack. I am an *Irishman*, I came from *Ireland*.

Serj. Wynne. What brought you to *Manchester*?

M^cCormack. I am a Weaver by Trade, and I came to *Manchester* last *May* was Twelve-month to seek for Business, and I continued there, and worked till the 30th of *June*; then Business falling short, I went into *Warwickshire*, and worked as a Haymaker for my Living.

Cross Examination.

Prisoner's Court. It is a little extraordinary, that you should take no particular Notice of the Prisoner; was you in the Rebel Army? Was he your Commander?

M^cCormack. No, he was not; Capt. * *Peter Moss* was my Commander.

Serj. Wynne. Had you any Command in the Rebel Army? was you either a Captain, or a Lieutenant?

M^cCormack. I had no Command at all.

Council. How came you hither to give your Evidence?

M^cCormack. I was taken into Custody by Mr. *Carrington*, one of the King's Messengers at *West-Chester*, and I did not know I was to come to *London* to be an Evidence.

Coun.

* *Peter Moss* escaped out of *Newgate* the Night before the Rebel Prisoners were removed by Habeas Corpus, and hath not been heard of since.

Council. Have you had any Promise of a Pardon?

McCormack. I have not, nor never had to my Knowledge.

Sir John Strange. Pray call *Samuel Maddox.*

(*Who appeared and was sworn.*)

King's Council. Mr. *Maddox*, Do you know Mr. *Fletcher*, the Prisoner at the Bar?

Maddox. I know him very well, and in the Month of last *November*, but I can't particularly remember the Day, I saw him at the *Dog-Imm* in *Manchester*, where there were several Persons assembled, and his Name was put down as an Officer in a new-raised Regiment, called the *Manchester Regiment*; he marched as a Captain from *Manchester* to *Winslow*, and from thence on to *Macclesfield*, where the said Regiment was drawn up in the Church-yard; and all the Soldiers who were unarmed had Arms delivered to them; the Prisoner, Mr. *Fletcher*, had there a Sword by his Side, and appeared in his Regimentals, as Captain, with a white Cockade, and a Plaid Sash.

The Rebels at *Macclesfield* were in general in Confusion for want of Men, and very much dreaded the King's Forces. I was determined to return to *Manchester*, and communicated my Thoughts and Intentions to several of my Comrades; the Prisoner, Mr. *Fletcher*, heard of my Resolution at a Place called *Blackersey*, and then he came to me, and told me it would be a scandalous thing to make such a dishonourable Retreat; and, putting his Hand in his Pocket, pulled out a great Parcel of Gold, and told me, I should never want while that lasted. I marched with him to *Derby*, and back to *Carlisle* afterwards.

Cross Examination.

Pris. Council. How came you to be at the *Black Dog* at *Manchester*?

Maddox. I went there accidentally; I was with the Regiment three Days before it marched, and I was never sober all the Time.

Pr.

Pr. Coun. What, not sober all the Time.

Maddox. I mean not all the Time I was at *Manchester*.

Pr. Coun. Where did you see the Prisoner, besides at *Manchester*?

Maddox. I saw him at *Penrith*, and I saw him at *Carlisle*, with other Officers, and with the Pretender's Son; at both which Places he acted in the Capacity of a Captain: And when *Carlisle* was surrendered, he went into the Church with other Officers.

Pr. Council. Have you had no Promise of Pardon?

Maddox. I have had none; I told you so, Sir, several Times before.

Pr. Coun. What, did none of your Friends advise you, or persuade you to do what you have done?

Maddox. I cannot say, but one of my Relations persuaded me to do what I could to save my own Life.

Pr. Coun. Could not Mr. *Fletcher* have escaped to save his Life, if he would?

Maddox. I cannot tell but what he might; for Capt. *Bradshaw* got away, but he soon joined the Army again.

Pr. Coun. Pray what Character does the Prisoner bear at *Manchester*?

Maddox. I do not know much of his general Character; I have seen him at the Assembly with the Ladies: He was a Chapman, and dealt in Linen before this Affair.

King's Council. Pray call *Thomas Bradbury*, who appeared and was sworn.

King's Council. Mr. *Bradbury*, pray what do you know, or what have you to say against the Prisoner at the Bar?

Evid. I lived at *Manchester* when the Rebels were in that Town; and one Morning, when a Serjeant and Drum were beating up for Volunteers at the

the *Exchange*, for the Pretender's *Manchester* Regiment, I happened to be there, where I believe there were more than 1000 People assembled; and, when the Serjeant had done his Speech, the Person at the Bar pulled off his Hat and hollowed, and said, God bless King J---s and Prince C---s.

Cross Examination.

Pr. Coun. As you live at *Manchester*, pray what Character does the Prisoner bear at that Town?

Evid. A good Character for ought I know, for I only came here to speak the Truth.

K. Coun. Pray call *Austin Coleman*, who being sworn, was asked if he had seen the Prisoner?

Coleman. Yes, I have seen him act as a Captain at *Preston*, *Penrith*, and at *Carlisle*, when it was surrendered to the Duke of *Cumberland*.

Pr. Coun. What Countryman are you?

Evid. I am an *Irishman*, and I came to *Manchester* about 12 Months ago.

Thomas Cragg was then called by the King's Council, and being sworn, was asked what he knew of the Prisoner?

Evid. I saw him march from *Manchester*; I saw the Colours of the *Manchester* Regiment flying, and the Drums beating; and I saw him act on the March as Captain, and I saw him surrender at *Carlisle* to his Royal Highness the Duke of *Cumberland's* Troops.

K. Coun. Pray call Capt. *Nevet*, who appeared and was sworn.

K. Coun. Pray, Sir, give the Court and the Jury an Account of what you know of the Prisoner at the Bar.

Capt. *Nevet.* I am an Officer in the third Regiment of Foot Guards in his Majesty's Service; and was at *Carlisle* when the Rebels surrender'd the Town to his Royal Highness the Duke of *Cumberland*. When the Officers of the Garrison surrendered themselves

selves Prisoners, and were in Custody, I had a particular Order from his Royal Highness, to go to the Place of their Confinement, to take the Names, Ranks, and Qualities of all those that were there. When I called on the Prisoner at the Bar, he told me he was a Captain; and when I had taken the Names of all the rest, and what Commissions they had under the Pretender's Son, I went and made a Report that Evening to the Duke, and his Royal Highness commanded me the next Day to go to the same Place; and I called over their Names, and he answered by the Name of Captain *Fletcher*.

The Prisoner's Defence.

Prisoner's Council. Call *Anne Aiton* (who was sworn) Do you know the Prisoner?

Evidence. Yes, Sir, I have known him ever since he was born, for I have lived in the Family 27 Years, he managed the Trade for his Mother at *Salford*, just over the Bridge at *Manchester*, and he had a very good Share of Business for a young Man. The Rebels came the 29th of *November* to *Manchester*, and we had a great many of them quarter'd upon us; Mr. *Fletcher's* Mother was very uneasy at the Sight of them, and went away, because she could not bear to see them eat and drink, and make free with every thing in the House. They tarried at *Manchester* 3 Days, and upon the 8th of *December* they returned again to *Manchester*, and Capt. *Robinson*, who commanded the Soldiers who were at our House before, came a second Time, and asked for our Master; he went out, and there were half a Dozen of Soldiers at the Door, and swore they would have him, and I never saw him after. I don't know he ever did a bad Thing in his Life; he always behaved well and dutiful to King *George*, and all the Royal Family. I ne-

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ver saw the least Willingness in him to join with the Pretender; all the Family were of the Church of *England*, and when they drag'd him away, he went away with Tears in his Eyes.

She was cross examined by Sir *John Strange*; and prevaricated very much in her Answers to most Questions that were asked of her.

Charles Worrall was produced and sworn, who said, he knew the Prisoner an Apprentice, and had sold him Goods, and that the Prisoner paid him honestly; but as to his Principles he knew nothing of them.

Then *John Howard* * was call'd and sworn, and being ask'd what Business he follow'd, he said, he was a Dealer in Leather.

Prisoner's Council. What do you know of the Prisoner?

Witness. I cannot say that I know much of his Notions one way or other.

Prisoner's Council. I think, Sir, you live at *Manchester*.

Witness. Yes, I do, Sir.

Prisoner's Council. Then pray inform the Court, and the Gentlemen of the Jury, so far as you know, what pass'd at *Manchester* relating to the Prisoner, during the Time the Rebels were there.

Witness. I cannot say any thing particularly.

Prisoner's Council. Pray do you know, at the Time the Pretender's Party were beating up for Volunteers at the Exchange in *Manchester*, that the Prisoner was present, and took off his Hat and hollow'd?

Witness. I was not out of Doors at that Time; I had a Relation lay dead in my House at the Time.

The Prisoner's Council not having any thing more to say in his Defence, and the Testimony of Mrs. *Anne Acton* having very little Weight with the Court

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* This is same Person that was Evidence the Day before for Colonel Townley.

and Jury, after my Lord Chief Justice had summ'd up the Evidence, the Jury, without going out of Court, found the Prisoner, Mr. *Fletcher*, GUILTY.

N. B. The Prisoner desired his Fetters might be taken off whilst he was on his Trial, which the Court granted; but after his Conviction, the Court gave the Goaler Direction to iron him again, and take an especial Care of his Prisoner, for that he was convicted of High Treason.

The Trial of *Fletcher* being over, the Court ordered *Thomas Chadwick* and *William Battree*, otherways *Battro*, otherways *Battragh*, to be set to the Bar, and accordingly they were both brought to the Bar by the Keeper of the County Goal, who both agreed in their Challenges of the Jury; but before Mr. *Chadwick* was tried, he desired his Irons might be taken off, which was done directly; and after having challenged 13 Jurymen, the 12 following Gentlemen were sworn to try them.

Francis Bartholomew,
Thomas Dawson,
William Shurlock,
Richard Toy,
John Fielder,
James Viner,

John Otway,
Thomas Puplett,
John Start,
George Heart,
William Brigstock,
John Rowles.

Mr. Att. Gen. Call *Samuel Maddox*; who appearing in Court, was sworn.

K. Coun. Mr. *Maddox*, pray relate to my Lord and the Gentlemen of the Jury, what you know concerning the Prisoners at the Bar, or either of them.

Maddox, (*looking on the Prisoners at the Bar*) I know both of them; Mr. *Chadwick* was a Lieutenant, and Mr. *Batteagh* served as an Ensign in the *Manchester* Regiment, in the Rebel Army.

K. Coun. Pray how did Mr. *Chadwick* appear? did he appear as an Officer?

Maddox.

Maddox. *Chadwick* wore a lac'd Hat, with a white Cockade in it, and I saw both of them march from *Manchester*, and when they marched *Mr. Batteagh* had on a *Scotch* Plaid Sash, lined with a white Ribbon; I was with them when they marched from *Manchester* to *Winslow*. There were a great many Men listed as we went on the Road.

K. Coun. Can you take upon you to say that either of the Prisoners at the Bar inlisted any?

Evid. I cannot be positive to that; but there were a great many Men inlisted by Captain *Deacon* upon our March from *Manchester*. Both the Prisoners appeared on Horse-back as Officers; and I myself carried the Colours out of *Manchester*. And as we were upon the Road on our March, I saw the Prisoner *Batteagh* carry the Colours once or twice, whereon was the Motto, LIBERTY AND PROPERTY, CHURCH AND COUNTRY.

K. Coun. Did any thing remarkable happen at *Winslow*, relating to the Prisoners? Did they act as Officers?

Evid. I know nothing at all particular there.

K. Coun. What Rout did you take when you left *Winslow*?

Evid. We marched on for *Derby*.

K. Coun. Did the Prisoners all along appear as Officers, and act as such?

Evid. Yes they did, *Chadwick* as a Lieutenant, and *Batteagh* as an Ensign; I saw them at *Penrith*, and at *Preston*; *Batteagh* belonged to Captain *James Dawson's* Company, but I don't know what Company the other Prisoner belonged to, and I saw both of them review'd by the young Pretender.

K. Coun. And what further happen'd; tell my Lord and the Gentlemen of the Jury every thing you know relating to this Matter.

Evid.

Evid. I can't say any thing more that is very material, only that from *Manchester* all the Way they acted as Officers.

K. Coun. Do you remember any thing that was remarkable when you came to *Lancaster*?

Evid. I remember that all the Officers were very merry there, and Mr. *Chadwick* proposed to entertain them with a Tune, and myself, and most of the Rebel Officers went into *Lancaster* Church, and went up into the Organ Gallery, and Mr. *Chadwick* play'd a Tune on the Organ.

K. Coun. What Tune did he play?

Evid. He play'd, *The King shall enjoy his own again*; and we were all very merry.

K. Coun. Pray inform the Court if you saw any of the Prisoners at *Carlisle*.

Evid. Yes, I saw both the Prisoners at *Carlisle*, in the Room with the young Pretender.

K. Coun. How came they in particular to be in the Room with the young Pretender.

Evid. We were all drawn up together to take Leave of him, before he left *Carlisle*.

K. Coun. Was the Town of *Carlisle* put in a Posture of Defence against the King's Forces.

Evid. Yes, we opposed his Majesty's Forces, and and I saw both the Prisoners mount Guard in the Town Hall, where a Guard was placed a Day or two after the Pretender left the Town.

K. Coun. Was you present when the Town was surrender'd to his Royal Highness the Duke of *Cumberland*.

Evid. I was; and both the Prisoners were put into the Isles of the Church amongst the other Rebel Officers.

Cross Examination.

Pris. Coun. How long have you known *Brettan*, or *Batteagh* as they call him?

Evid.

Evid. I have known him two Years and upwards ; he was an Attorney's Clerk, and came and persuaded me to join with the young Pretender before I had any Inclination so to do ; this we talk'd of privately in his Bed-Chamber, he told me he had new Linen made on Purpose, and was going to the Sadlers to bespeak Bags to carry his Linen and other Things in.

Pris. Coun. Had not you and the Prisoner a Quarrel at *Carlisle*, I think you had a Trial of Skill there.

Evid. That I confess, and I will tell you what it was about ; it was about a very foolish Affair.----- Provisions being a little scarce at *Carlisle*, I had some Sausages, and the Prisoner would have them from me, and I not caring to part with them, caused a Quarrel, and we fought together.

Pris. Coun. Did not you tell him you would do for him, or be reveng'd on him, or some Words to that Purpose ?

Evid. No, never as I remember, I would not swear any Man's Life away for a Sausage.

Pris. Coun. Don't you swear in Expectation of saving your Life.

Mr. Attorney General. It is not a proper Question, -----that has been answer'd already.

Sir J. Strange. Do you expect to save your Life by false Swearing ?

Evid. No, I do not indeed ; I will swear nothing but the Truth, and what I have sworn in this honourable Court is all Matters of Fact.

King's Council. Pray call *Thomas Craig*, who appeared and was sworn.

King's Coun. Well, Sir, what have you to say to either of the Prisoners that stand by you ?

Craig. I know Mr. *Chadwick* very well, but I cannot say that I have so much Knowledge of *Batterab* ; I remember seeing Mr. *Chadwick* at *Manchester*, with a Cockade in his Hat. Then I afterwards saw him march

march from *Manchester* to *Winslow*, as a Lieutenant, I saw him at several other Places on the Road, and also at *Penrith*, where he still appeared as a Lieutenant.

King's Coun. Then you are sure he was a Lieutenant in the Rebel Army?

Evid. Yes; he marched from *Manchester* to *Penrith Moor* as such, then I saw him at *Carlisle*, and there he mounted Guard as a Lieutenant. I am sure that I saw him once mount Guard.

Pris. Coun. Don't you expect to have a free Pardon?

Evid. As to that I must trust to his Majesty's Mercy.

Pris. Coun. How come you to know Mr. *Chadwick* so well? do you know him so very well that you can be positive to him?

Evid. I have known him many Years, and I belonged to the *Manchester Regiment*.

King's Coun. Call *Austin Coleman*, who was produced and sworn.

King's Coun. Give an Account, Mr. *Coleman*, to my Lord and the Jury, what you know of the Prisoners at the Bar.

(*Coleman being sworn, and looking on them, and then pointing Batteah.*)

That Gentleman's Name is *Batteah*, and I have seen him at *Derby* and t'other is *Chadwick*, and him I have seen at *Manchester*, there he appeared as an Officer, with a Plaid Sash, and laced Hat, with a white Cockade in it: I did not see *Batteah* have any. They both appeared as Officers in marching along; they were sometimes on Foot, and sometimes on Horseback.

King's Council. Do you know any thing of their being at *Carlisle*?

Evidence. I saw them both in the Guard-room with Capt. *Fletcher*.

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King's Council. Did they wear their Sashes there, as other Officers did?

Evidence. I cannot remember that, but when the Town was surrender'd to the Duke of Cumberland, they were put into the Church with other Rebel Officers.----- I am sure of it.

(Ormsby M'Cormack was next produced and sworn.)

King's Council. Do you know either of the Prisoners?

Evidence. Yes, I have seen both of them in the Manchester Regiment, I saw * *Bretah* with the Rebel Army, and he carried the Colours from *Penrith* to *Carlisle*.

King's Council. And did you see him at *Carlisle*?

Evidence. Yes, I saw him there when the Town was besieged by the Duke of Cumberland.

Kings Council. Did he ever mount Guard at *Carlisle*?

Evidence. Not to my Knowledge; but I have seen him in the Guard-room, with a Sword, a Sash, and a Cockade.

King's Council. And you always took him to be an Officer there, did you not?

Evidence. Yes, for I very well remember, that he was walking up and down the *Castle-Yard*, as an Officer, when the Arms were distributing to the Rebel Soldiers there, and Mr. *Chadwick* was with them.

John Collins, a Boy of 13 Years of Age was called and sworn.

Pris. Coun. Do you know the Nature of an Oath, Child?

Collins. Yes I do, I know I am sworn to speak the Truth, and I shall never be happy if I do not.

King's Council. Do you know either of the Prisoners? was you among the Rebels at *Carlisle*?

Collins.

* *Bretah, is the Prisoner's right Name.*

Collins. Yes, I was, and was a Servant to Capt. *Lott*, and we were taken Prisoners by the Duke at *Carlisle*, where on my Knees I beg'd my Life of his Royal Highness, which he generously granted, and God bless him for it. I saw both the Prisoners at *Carlisle*, and there they always acted as Officers in the *Manchester Regiment*; *Chadwick* as a Lieutenant, and *Batteab* as an Ensign: I know them both perfectly well.

King's Coun. Pray call Capt. *Nevet*, who was sworn.

King's Coun. I think when *Carlisle* surrender'd to his Royal Highness the Duke, you had a Command from his Royal Highness to go to the Church where the Officers were Prisoners, and to take their Names?

Capt. Nevet. Yes, I had, Sir.

King's Coun. Do you remember to have seen either of the Prisoners at the Bar at *Carlisle*?

Capt. Nevet. Perfectly well: The first Time that I saw them, Mr. *Chadwick* gave in his Name as a Lieutenant in *Townley's Manchester Regiment*; and the other Prisoner, *Batteab* told me he was an Ensign in the same Regiment; I noted it so in my Paper: And on making a Report to his Royal Highness the Duke, and giving in a List of their Names, and Qualities; I was ordered to go the next Morning, and I went accordingly, and called all the Prisoners over by their Names, and they answered, *Chadwick* as a Lieutenant, and *Batteab* as an Ensign.

The King's Witnesses being all gone thro', and neither of the Prisoners making any Defence, or calling any Witnesses to their Characters, the Jury, without going out of the Court, found both the Prisoners Guilty of High Treason; and the Court ordered the Irons to be put on Mr. *Chadwick* again.



F I N I S.